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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,589	01/13/2004	Stephan Olivier Van Banning	47161-00043USPT	1772

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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
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CHICAGO, IL 60606

EXAMINER

ENSEY, BRIAN

ART UNIT	PAPER NUMBER
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2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/756,589

Applicant(s)

VAN BANNING ET AL.

Examiner

Brian Ensey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 17 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 18 and 26 is/are rejected.
- 7) ☒ Claim(s) 15, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 15, 16, 18 and 27 are objected to because of the following informalities: Claims 15, 16, 18 and 27 depend from withdrawn claim 13. The Examiner believes this is a typographical error and is treating said claims as being dependent from claim 14. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 18 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Imahori et al. et al. U.S. Patent No. 6,853,735.

Regarding claim 14, Imahori discloses a receiver for a listening device, comprising: a magnet assembly (24); an armature (20) having a moveable portion (34a) and a fixed portion (32b); and a coil assembly including a bobbin (36) and a conductive wire (28) wound around said bobbin, said coil assembly being adjacent to said magnet assembly and, together with said magnet assembly, defining a passage through which said moveable portion passes (passage through coil (28) and between magnet assembly (24) and magnet positioning bars (40)), said bobbin including an armature-mounting structure (26); configured to engage said fixed portion of

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said armature (See col. 5, lines 61-63) such that said moveable portion of said armature is substantially and automatically centered within said passage (The armature is inherently substantially and automatically centered since the receiver is of a balanced armature type and is constructed to provide a high electric to acoustic conversion with low power consumption as well as being small in size (See abstract)) in response to said fixed portion being engaged to said armature-mounting structure (See Figs. 4-6 and col. 5, line 13 to col. 6, line 16).

Regarding claim 16, Imahori further teaches said armature-mounting structure (26) has a shape that substantially matches a shape of said fixed portion of said armature (See Fig. 5 and col. 5, lines 60-65).

Regarding claim 18, Imahori further teaches said armature (11) is an E-shaped armature (See Fig. 4 and col. 5, lines 20 and 21).

Regarding claim 26, Imahori discloses a receiver for a listening device, comprising: a magnet assembly (24); an armature (20) having a moveable portion (34a) and a fixed portion (32b); and a coil assembly including a bobbin (36) and a conductive wire (28) wound around said bobbin, said coil assembly being adjacent to said magnet assembly and, together with said magnet assembly, defining a passage through which said moveable portion passes (passage through coil (28) and between magnet assembly (24) and magnet positioning bars (40)), said bobbin including an armature-centering structure (26), configured to engage said fixed portion of said armature (See col. 5, lines 61-63) such that said moveable portion of said armature is substantially and automatically centered within said passage (The armature is inherently substantially and automatically centered since the receiver is of a balanced armature type and is constructed to provide a high electric to acoustic conversion with low power consumption as

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well as being small in size (See abstract)) in response to said fixed portion being engaged to said armature-centering structure (See Figs. 4-6 and col. 5, line 13 to col. 6, line 16).

Allowable Subject Matter

Claims 15, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 3/6/07 have been fully considered but they are not persuasive.

The Examiner submits that Imahori et al (US 6853735) teaches the construction of a balanced armature type electromagnetic receiver. Imahori further teaches construction of the device by laser welding the armature (20) to the armature mounting structure (26). The applicant discloses that manual armature-centering procedure is well known in the art but tends to be time-consuming, difficult, and unreliable (See applicant's arguments page 9, lines 15 and 16 submitted 3/6/07). However, the Examiner submits that Imahori does not teach manual construction and the Examiner submits that manual construction is rarely performed in present day manufacturing due to the high labor costs. The Examiner also submits that a balanced armature receiver would inherently be constructed with a centered armature to produce a high electric to acoustic conversion with low power consumption as well as being small in size (See

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abstract) and that a non-centered armature would produce an unbalanced armature and be considered a defective device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".
Hand-delivered responses should be brought to:

Customer Service Window

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Randolph Building
401 Dulany Street
Arlington, VA 22314

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SINH TRAN
SUPERVISORY PATENT EXAMINER

BKE
March 22, 2007